

rule, ending the filibuster, changes America for the worse.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Madam President, I ask unanimous consent that the scheduled vote proceed immediately.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE ON BOARDMAN NOMINATION

The question is, Will the Senate advise and consent to the Boardman nomination?

Mrs. GILLIBRAND. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 248 Ex.]

YEAS—52

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lujan	Stabenow
Collins	Manchin	Tester
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warnock
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Ossoff	Wyden
Graham	Padilla	
Hassan	Peters	

NAYS—48

Barrasso	Grassley	Portman
Blackburn	Hagerty	Risch
Blunt	Hawley	Romney
Boozman	Hoeven	Rounds
Braun	Hyde-Smith	Rubio
Burr	Inhofe	Sasse
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Cornyn	Lankford	Shelby
Cotton	Lee	Sullivan
Cramer	Lummis	Thune
Crapo	Marshall	Tillis
Cruz	McConnell	Toomey
Daines	Moran	Tuberville
Ernst	Murkowski	Wicker
Fischer	Paul	Young

The nomination was confirmed.

The PRESIDING OFFICER (Mr. OSSOFF). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 128,

Candace Jackson-Akiwumi, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

Charles E. Schumer, Richard J. Durbin, Tina Smith, Sherrod Brown, Jon Ossoff, Alex Padilla, Jacky Rosen, Tammy Duckworth, Brian Schatz, Chris Van Hollen, Catherine Cortez Masto, Robert Menendez, Richard Blumenthal, Patty Murray, Martin Heinrich, Michael F. Bennet, Sheldon Whitehouse.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Candace Jackson-Akiwumi, of Illinois, to be United States Circuit Judge for the Seventh Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 249 Ex.]

YEAS—53

Baldwin	Heinrich	Peters
Bennet	Hickenlooper	Reed
Blumenthal	Hirono	Rosen
Booker	Kaine	Sanders
Brown	Kelly	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Leahy	Sinema
Casey	Lujan	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murkowski	Warnock
Feinstein	Murphy	Warren
Gillibrand	Murray	Whitehouse
Graham	Ossoff	Wyden
Hassan	Padilla	

NAYS—47

Barrasso	Grassley	Risch
Blackburn	Hagerty	Romney
Blunt	Hawley	Rounds
Boozman	Hoeven	Rubio
Braun	Hyde-Smith	Sasse
Burr	Inhofe	Scott (FL)
Capito	Johnson	Scott (SC)
Cassidy	Kennedy	Shelby
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Toomey
Cruz	McConnell	Tuberville
Daines	Moran	Wicker
Ernst	Paul	Young
Fischer	Portman	

The PRESIDING OFFICER (Mr. KELLY). On this vote, the yeas are 53, the nays are 47.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Candace Jackson-Akiwumi, of Illinois, to be United States Circuit Judge for the Seventh Circuit.

The PRESIDING OFFICER. The Senator from Connecticut.

FILIBUSTER

Mr. MURPHY. Mr. President, my State proudly calls itself the Land of Steady Habits. Some people in Con-

necticut think it is kind of a funny thing to be proud of—being resistant to change—but honestly, in the Northeast, in the crucible of America, we know there is real value to consistency and tradition.

A nation as unique as ours—multicultural, democratic, ever expanding in scope and ambition—we probably can't hold together unless there is some agreement between all of our different peoples about the expectations that we have for each other in the conduct of our national business. Without tradition, our Nation's defining dynamism, it might break us.

Yes, it is wildly old-fashioned to hold town meetings, where every citizen has to show up on one particular day, to make decisions about how you spend money or what rates you pay in taxes, but that way of governing, created in New England some four centuries ago, is still the method of decisionmaking in many of our towns. It may not be the most efficient means of government, but tradition matters. It helps to hold us together as a country.

I know and appreciate the value of consistency. I don't deny it. So earlier this week, I read with interest an opinion piece, penned by one of my friends in the Senate Democratic caucus, making the argument that amongst the most important reasons to preserve the 60-vote threshold in the Senate is to advance the value of consistency and tradition in American politics.

I was glad to read it. I am proud of my colleague because for too long, the punditry and the activists have had near exclusive domain over the debate about the wisdom of changing the rules of this body. So it has been strange, given how much this place means to the 100 of us who serve here, that we have mostly left the dialogue over its future to those who don't work inside this Chamber every day.

Yes, right now, there is a disagreement amongst Senate Democrats and between the majority of Senate Democrats and the majority of Senate Republicans about how the Senate should operate, but there is no merit in hiding this dispute. There is no valor in letting others define the terms that lay out the conflicting arguments, which I readily submit are compelling on both sides. So let's have the debate. Let's have it right here. No more shadow-boxing. The stakes, I would argue, are too important.

Let me start here. The argument to keep the 60-vote threshold, to guarantee policy consistency or to uphold Senate tradition, is downright dangerous because this argument essentially prioritizes consistency over democracy.

At the very moment when Americans have less faith than ever before that this place has the capacity to implement the will of the people, the 60-vote threshold is a slap in the face of majoritarianism, which is the bedrock principal of American democracy, the idea that the majority of people get to

decide the direction of this country—not elites, not oligarchs, like in other nations; people, regular people.

To say that Americans can have an election, choose leaders of a particular view, and then watch while the rules of democracy deliberately stop the voters' will from being enacted is to thumb our noses at the American electorate—at the very moment when they are actively considering whether American democracy has anything left to offer them.

My colleague argues quite powerfully that the requirement to achieve 60 votes to pass legislation in the Senate guards against rapid policy change, giving several examples, including education and environment policy and voting rules as areas where danger might lie if one majority imposed the policy in one Congress that would be undone by the next. I want to walk us through this argument.

My first approach might be to postpone the harder question of whether or not to value consistency over democracy and to simply accept for a moment the prioritization of consistency and tradition. I do so knowing that our Founding Fathers also prioritized consistency.

In Federalist 9 and 10, Hamilton and Madison discuss what they call the problem of factions. Madison says that a faction is “a number of citizens, whether amounting to a minority or majority of the whole, who are united and actuated by some common impulse of passion, adverse to the rights of other citizens.” Now, notice here that Madison doesn't really care whether the faction represents a minority or majority of citizens; he simply defines it by its cause's malevolence. This was and still is tricky business—rich White men defining for everybody else what cause is righteous and which cause is wicked. But our Founding Fathers built a system of government to make rapid policy change—even change supported by the majority of voters—very, very hard to implement.

Now, how do they do this? I want to lay this out because if you do care about preventing rapid policy shifts, it is important to understand why the 60-vote threshold isn't necessary, is overkill given all the other barriers our system has to prevent rapid policy shifts.

First, our Founding Fathers established a bicameral legislature as opposed to a unicameral parliamentary system. That meant that no change could be implemented until two different legislative bodies agreed to the exact same text.

Second, they layered on top of that bicameral legislative structure a unitary President with the power to veto that legislation.

Third, they put in place an unelected body, the Supreme Court, that could invalidate any statutory changes that conflicted with the Constitution.

Fourth, they put the House and the Senate and the Presidency all on over-

lapping, conflicting election schedules, guaranteeing that it would be 100 percent possible for the voters to sweep out all elected officials and replace them with a new slate all at one moment.

Fifth, the Founders built a few super-majority requirements but only for selective occasions: treaties, impeachments, constitutional amendments—the stuff that could last forever. The Founding Fathers did want extra consensus around that.

All of that design has lasted. It is still with us today.

There are other parts of the original design intended to protect the value of consistency to protect against the danger of faction that have not lasted. The Founders also believed that only White men should vote and that citizens shouldn't be trusted to directly select the Members of this body. That is all history because for all of the anti-faction design that we have kept, we changed just as much, and all of that change has moved in only one direction—toward more majoritarian democracy.

Why? Well, because as our grand experiment—the American experiment—matured, we saw proof of concept. The people could be trusted to govern themselves. They could choose leaders who were more able, more honest, more effective than any King or Queen, any Sultan or Emperor. So we extended the franchise universally. We directly elected the Senate.

As America expanded, the new States out West gobbled up even more democracy. The West decided to not just elect legislators but judges, prosecutors, dog catchers and commissioners. Majoritarian rule became addictive, and our country grew and it demanded more and more of it.

That brings us to the 60-vote threshold. The 60-vote threshold in a country built on the strength of direct democracy stands out like a sore, rotting thumb—this anti-majoritarian drain clog designed intentionally to stop the majority of Americans from getting what they want from government.

Proponents of existing Senate rules say that in the name of bipartisanship or tradition or consistency of policy, we should purposefully frustrate the changing will of the electorate. But why? Why not trust voters? For instance, voters elected a President and a Congress in 2008 that promised to enact a system of universal healthcare. It just so happened that at that moment, for the first time in 40 years, there were 60 votes for the party of that view in the Senate, so a universal healthcare law was passed.

But why should it not be up to the voters and not politicians to review the efficacy of a major policy change like that and, if they so choose, elect leaders to rescind or revise it? I don't want the ACA repealed, but I am deeply uncomfortable that a 60-vote threshold robs from voters that decision.

This preference for policy consistency, intentionally blind to the merits

of policy over direct democracy, is particularly insidious at this moment in American history, first because the 60-vote threshold is being used in a very, very different way today than it has anytime prior in our Nation's history.

Up until the 1970s, cloture votes were almost nonexistent in the Senate. Legislative filibusters were used in those days mostly by racist southern White Senators to stop civil rights bills. Beginning in the seventies, that tactic became more widely employed but was still used sparingly.

Consider this. In 1994, our colleague Senator FEINSTEIN forced a vote on one of the most controversial of all proposals that come before this body—a ban on assault weapons. It received fewer votes than the Manchin-Toomey background check bill did 30 years later. Senator FEINSTEIN's proposal got 52 votes; Manchin-Toomey got 54 votes. But the assault weapons ban became law while the background checks bill did not. Why? Because in 1994, many important votes, even the assault weapons ban, were allowed to proceed on a majority-vote basis. Not so by 2013.

I could make the argument that it was Republicans who started this rapid escalation of the use of the 60-vote threshold, but who really cares? It doesn't matter because today both parties use it almost without exception in a way that looks radically different from the way the tactic was utilized half a century ago.

I would argue that if you want to do an overview of the history of the 60-vote threshold, it doesn't tell a story of the value the Senate places on consistency. No, it is the opposite. Watching the way the tactic has been used so differently over time, it demonstrates the value the Senate places on change in practice and tradition. Reforming this rule would, frankly, just pay heed to this reality.

The second danger of valuing consistency over democracy at this moment lies in the signal that it sends to an American public that is in, frankly, no mood for the choices of the elites to be continually substituted for their own collective judgment.

Right now, Americans are in kind of a revolutionary mood, and for good reason. More Americans today than at any time in recent history see themselves on the precipice of financial and sometimes spiritual ruin. They are done with economic and political elites jealously protecting the status quo. And the election of Donald Trump, although revealed by time to be a false prophet, was an unmistakable foot stomp by an electorate tired of being taken for granted.

So why on Earth would our message, amidst this growing populist tempest, be to tell voters that rules in the Senate are required to protect them from their own bad judgment, to take from them, purposely, the ability to change policies whenever and however they wish?

I submit to you that today, right now, this replacement of popular will by anti-majoritarian rule-rigging could destroy us. Today more than ever, voters want to know that their vote counts every election. And continuing to give minorities here in the Senate power to stop change is dangerously dissonant with the current political mood of this country. Take power away from the American people at your peril.

Finally, on this question of the value we should place on consistency, I want to raise the problem of the city firehouse. Firehouses are places that value consistency and tradition. Firefighters spend a lot of time in close quarters together. When that alarm rings, they are required to work together in precise and disciplined unison to get out the door in seconds in order to save lives and property. Practices change in a firehouse but carefully and through consensus decision making. Keeping everybody together matters when the stakes are so high.

But what would happen if inside that firehouse, a sizable group of firefighters decided one day that the mission of the department should no longer be to put out fires but maybe, instead, just to let them burn a little? Wouldn't then the value of consensus decision making become a little less important? If you were a homeowner, wouldn't you want to make sure that the firefighters who still wanted to fight fires were setting the rules and not the guys who are OK with the houses in the neighborhood burning down?

I know this is a crude analogy, but to value consistency or tradition above everything else, I think you have to be pretty certain that everybody in your club, everybody on your team is guided by the same foundational goal.

In the case of the U.S. Senate, our goal, our endgame has always been simple: the preservation of American democracy, the belief that every American should have a say in who governs, and the persons whom they choose and no one else should be seated in power.

We have had fights—often vicious in nature—over the course of our Nation's history over how fast we should expand the vote, how quickly we should reform our Constitution to allow for more direct democracy. But never before has one party actively advocated for the lessening of democracy. Never before has one party openly advocated for candidates who receive the smaller share of the vote to be made President of the United States.

In the last year, a democratic Rubicon has been crossed by one party, and we can't ignore this devastating blow to our Nation. You cannot value consistency in practice when a large faction of your group's members don't believe in the underlying mission of your organization any longer. The firehouse can't just keep doing the same things it always does year after year for the sake of consistency or tradition or con-

sensus when two or three of the members who hop on the firetruck when that alarm sounds aren't intending to actually put out the fire when they arrive at the building.

Giving Republicans a veto power over legislation when they no longer believe in the same way the Democrats do or Republicans used to in the sacredness of the vote is to risk the voluntary destruction of our democracy.

Consistency as a value has merit. It does. But in this business, consistency is often put on an unhealthy pedestal. What is the value of being consistent when all of the circumstances around you are changing? Where is the strength in sticking to your position when everything around you is in metamorphosis? When democracy itself is being attacked in a brutal, coordinated, unprecedented volley of blows, what is the good of holding to a position just for the sake of being consistent if the primary consequence is to simply green light the assault to continue?

Consistency and tradition and bipartisanship—they matter but not at the expense of democracy, not in a moment when millions of voters are questioning the wisdom of American democracy because no matter whom they elect, nothing seems to change, and not when one party has increasingly abandoned the joint project to which all Members of this body swore an oath as a condition of our membership.

I yield the floor.

Mr. President, I know Senator MARSHALL is ready to speak, and I apologize for delaying him with my rather long remarks.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MURPHY. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SESQUICENTENNIAL OF CALVERT CITY

Mr. MCCONNELL. Mr. President, for 150 years, Calvert City has been a central hub of the Jackson Purchase, serving as a focal point for pioneers, farmers, and railroaders from all over western Kentucky. The town's enduring legacy is a tribute to the enterprising demeanor of those trailblazing Kentuckians who first called the Purchase home. In recognition of Calvert City's sesquicentennial, I am privileged to join this vibrant Kentucky community in celebrating 150 years of Bluegrass heritage.

Calvert City started off as nothing more than a depot alongside the Paducah & Elizabethtown Railroad, but

quickly blossomed as settlers spread west into the Jackson Purchase to profit from the region's fertile soil and easy access to the Tennessee, Cumberland, Ohio, and Mississippi Rivers. By the time the Kentucky Dam was completed nearby in 1944, bringing jobs and hydroelectric power to the region, the town was a flourishing center of commerce. Today, Calvert City is home to numerous advanced chemical manufacturing facilities and continues to play a critical role in western Kentucky's economy.

In recognition of Calvert City's pioneer spirit, the town is celebrating 150 years of history with 150 events throughout the calendar year. These ceremonies are made especially poignant by the passing of Mayor Lynn Boyd Jones this January. He had dreamed about Calvert City's 150th anniversary since the town's centennial 50 years ago and was an early planner of this year's festivities.

As Kentucky emerges from the COVID-19 pandemic, the celebration will be a uniquely joyous tribute. All aspects of Calvert City's storied history will be on display, from railroad cars, to an auto show, to events at Oak Hill, the original home of town founder Potilla Calvert.

I want to give special thanks to the Calvert City civic leaders who made this year's sesquicentennial celebration possible. It is through their hard work and dedication that the town continues to prosper, so many years after its founding. On behalf of the Senate, I share our congratulations with every Calvert City family and join them in honoring 150 years of proud Kentucky traditions.

LGBTQ PRIDE MONTH

Mr. CARDIN. Mr. President, I rise in recognition of LGBTQ Pride Month of 2021. For more than 50 years, Pride Month has offered us a chance to celebrate lesbian, gay, bisexual, transgender, and queer—LGBTQ—Americans and to reflect upon the progress that our Nation has made in how we treat this community in law, policy, custom, and everyday life. It also is an opportunity to redouble our efforts to end enduring discrimination based on sexual orientation or gender identity.

President Biden promptly issued a Presidential proclamation recognizing June of 2021 as Pride Month. With the authorization of Secretary of State Antony Blinken, U.S. diplomatic missions around the world are displaying the pride flag as a clear visual representation of American values. On the very first day of his administration, President Biden issued an executive order on preventing and combating discrimination based on gender identity or sexual orientation. This decision has already driven new policies at the agency level making an important difference in real people's lives, from protecting transgender individuals seeking safe shelter to reversing the